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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

CITY OF SPOKANE, a municipal  
corporation located in the County of  
Spokane, State of Washington,

Plaintiff,  
v.

MONSANTO COMPANY, SOLUTIA  
INC., and PHARMACIA  
CORPORATION, and DOES 1 through  
100.

Defendants.

Case No.: 2:15-cv-00201-SMJ

**PLAINTIFFS' RESPONSE TO  
DEFENDANTS' STATEMENT OF  
DISPUTED MATERIAL FACTS AND  
COUNTER-STATEMENT OF  
MATERIAL FACTS (ECF NO. 527)**

Plaintiff submits the following in response to Defendants Monsanto Company, Solutia Inc., and Pharmacia LLC (collectively “Monsanto”) Statement of Disputed Material Facts and Counterstatement of Material Undisputed Fact, ECF No. 527.

Defendants’ Counter Statement of Undisputed Material Fact	Defendant’s Supporting Evidence	Plaintiff’s Response
1. Under the National Pollutant Discharge Elimination System (“NPDES”), Washington State may issue two types of permits to control discharge into the Spokane River: individual permits and general permits. Individual permits are permits for a specific discharge at a specific location. General permits are permits for a group of similar discharges at diverse locations.	Declaration of Alan Y. Wong in support of Defendants’ Counter- Statement of Material Undisputed Facts (“Wong Decl.”), Ex. 1 at 1 (NPDES Permits 101	Not disputed that the State of Washington may issue general or individual permits. Not disputed as to the descriptions of general and individual permits.
2. The following non-governmental entities discharge into the Spokane River pursuant to an individual NPDES permit: Kaiser Aluminum, Inland Empire Paper, and the Midnite Mine site of Dawn Mining Company.	<i>See generally</i> Wong Decl., Ex. 2 (Kaiser Aluminum NPDES Permit); Ex. 3 (Inland Empire NPDES Permit); Ex. 4 (Midnite Mine Authorization).	Plaintiff does not dispute that Kaiser Aluminum and Inland Empire Paper discharge into the Spokane River pursuant to an individual NPDES permit; both permits list “Spokane River” as the receiving water body. However, Dawn Mining Company’s permit lists “Spokane Arm of Lake Roosevelt” as the receiving water. ECF No. 528-4 at 2.
3. Washington State issued the Industrial Stormwater General Permit (“ISPG NPDES Permit”), which is a “statewide permit that applies to <i>facilities</i> conducting <i>industrial activities</i> that discharge <i>stormwater</i> to a surface waterbody or to a <i>storm sewer</i>	Wong Decl., Ex. 5 at p. 1 (ISGP NPDES Permit).	Not disputed.

1	system that drains to a surface		
2	waterbody.”		
3	(emphasis in original)		
4			
5	4. The following non	<i>See generally</i> Wong	Disputed. The documents
6	Governmental entities	Decl., Ex. 6	cited by Defendants do not
7	discharge into the Spokane River	(Earthworks	prove that the companies
8	pursuant to the ISPG NPDES	ISGP Letter); Ex. 7	actually discharge into the
9	Permit: Earthworks Recycling	(Berg	Spokane River.
10	Inc., Berg Manufacturing Inc.,	Manufacturing CNE	
11	FedEx Ground Spokane,	Exemption Letter);	Exhibit 6 is a letter noting
12	Goodrich Corporation	Ex. 8	that Earthworks Recycling
13	Carbon Products, Inland	(FedEx Ground CNE	Inc is covered under the
14	Northwest Dairies, EZ	Exemption Letter);	Industrial Stormwater
15	Loader Boat Trailers Inc.,	Ex. 9	General Permit. The permit
16	Central Pre Mix Prestress	(Goodrich CNE	alone does not demonstrate
17	Co., and FedEx Express	Exemption Letter);	that the company currently
18	GEGA.	Ex. 10	discharges into the Spokane
19		(Inland ISPG NPDES	River. ECF No. 528-6 at 2.
20		Permit Letter); Ex. 11	
21		(EZ Loader ISPG	Exhibit 7 is a letter
22		NPDES	documenting that Berg
23		Letter); Ex. 12	Manufacturing, Inc.’s site is
24		(Central Pre Mix	eligible for a Conditional No
25		restress ISPG NPDES	Exposure Exemption, such
26		Letter); Ex. 13	that it is not required to
27		(FedEx GEGA CNE	apply for and obtain a
28		Exemption Letter).	permit. ECF No. 528-7 at 2.
			Exhibit 8 is a letter
			documenting that Fedex
			Ground Package System,
			Inc.’s site is eligible for a
			Conditional No Exposure
			Exemption, such that it is not
			required to apply for and
			obtain a permit. ECF No.
			528-8 at 2.

1		Exhibit 9 is a letter
2		documenting that Goodrich's
3		site is eligible for a
4		Conditional No Exposure
5		Exemption, such that it is not
6		required to apply for and
7		obtain a permit. ECF No.
8		528-9 at 2.
9		Exhibit 10 is a letter noting
10		that Inland Northwest
11		Dairies LLC is covered
12		under the Industrial
13		Stormwater General Permit.
14		The permit alone does not
15		demonstrate that the
16		company currently
17		discharges into the Spokane
18		River. ECF No. 528-10 at 2.
19		Exhibit 11 is a letter noting
20		that EZ Loader Boat Trailers
21		Inc is covered under the
22		Industrial Stormwater
23		General Permit. The permit
24		alone does not demonstrate
25		that the company currently
26		discharges into the Spokane
27		River. ECF No. 528-11 at 2.
28		Exhibit 12 is a letter noting
		that Central Pre Mix
		Prestress Co. is covered
		under the Industrial
		Stormwater General Permit.
		The permit alone does not
		demonstrate that the
		company currently
		discharges into the Spokane
		River. ECF No. 528-12 at 2.

Exhibit 13 is a letter documenting that FedEx Express -- GEGA's site is eligible for a Conditional No Exposure Exemption, such that it is not required to apply for and obtain a permit. ECF No. 528-13 at 2.

RESPECTFULLY SUBMITTED this 3 day of March 2020.

By: /s/ Brett Land

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By: s/ Brett Land  
Brett Land WSBA #53634